

CENTER FOR DISABILITY ACCESS  
Amanda Seabock, Esq., SBN 289900  
Chris Carson, Esq., SBN 280048  
Dennis Price, Esq., SBN 279082  
Mail: 8033 Linda Vista Road, Suite 200  
San Diego, CA 92111  
(858) 375-7385; (888) 422-5191 fax  
amandas@potterhandy.com

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Scott Johnson,**

Plaintiff,

v.

**JKLM Properties, L.L.C.,** a  
California Limited Liability  
Company; and Does 1-10,

Defendants.

**Case No.**

**Complaint For Damages And  
Injunctive Relief For Violations  
Of: American's With Disabilities  
Act; Unruh Civil Rights Act**

Plaintiff Scott Johnson complains of JKLM Properties, L.L.C., a California Limited Liability Company; and Does 1-10 ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. Plaintiff is a level C-5 quadriplegic. He cannot walk and also has significant manual dexterity impairments. He uses a wheelchair for mobility and has a specially equipped van.

2. Defendant JKLM Properties, L.L.C. owned the real property located at or about 131 S. Main Street, Milpitas, California, between May 2019 and October 2019.

1       3. Defendant JKLM Properties, L.L.C. owns the real property located at or  
2 about 131 S. Main Street, Milpitas, California, currently.

3       4. Plaintiff does not know the true names of Defendants, their business  
4 capacities, their ownership connection to the property and business, or their  
5 relative responsibilities in causing the access violations herein complained of,  
6 and alleges a joint venture and common enterprise by all such Defendants.  
7 Plaintiff is informed and believes that each of the Defendants herein,  
8 including Does 1 through 10, inclusive, is responsible in some capacity for the  
9 events herein alleged, or is a necessary party for obtaining appropriate relief.  
10 Plaintiff will seek leave to amend when the true names, capacities,  
11 connections, and responsibilities of the Defendants and Does 1 through 10,  
12 inclusive, are ascertained.

13  
14       **JURISDICTION & VENUE:**

15       5. The Court has subject matter jurisdiction over the action pursuant to 28  
16 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
17 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

18       6. Pursuant to supplemental jurisdiction, an attendant and related cause  
19 of action, arising from the same nucleus of operative facts and arising out of  
20 the same transactions, is also brought under California's Unruh Civil Rights  
21 Act, which act expressly incorporates the Americans with Disabilities Act.

22       7. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
23 founded on the fact that the real property which is the subject of this action is  
24 located in this district and that Plaintiff's cause of action arose in this district.

25  
26       **FACTUAL ALLEGATIONS:**

27       8. Plaintiff went to Main Street Professional Center in May 2019, June  
28 2019 and October 2019 with the intention to avail himself of its goods or

1 services, motivated in part to determine if the defendants comply with the  
2 disability access laws.

3 9. Main Street Professional Center is a facility open to the public, a place  
4 of public accommodation, and a business establishment.

5 10. Unfortunately, on the dates of the plaintiff's visits, the defendants failed  
6 to provide wheelchair accessible parking in conformance with the ADA  
7 Standards as it relates to wheelchair users like the plaintiff.

8 11. On information and belief the defendants currently fail to provide  
9 wheelchair accessible parking.

10 12. These barriers relate to and impact the plaintiff's disability. Plaintiff  
11 personally encountered these barriers.

12 13. As a wheelchair user, the plaintiff benefits from and is entitled to use  
13 wheelchair accessible parking. By failing to provide accessible facilities, the  
14 defendants denied the plaintiff full and equal access.

15 14. The failure to provide accessible facilities created difficulty and  
16 discomfort for the Plaintiff.

17 15. The defendants have failed to maintain in working and useable  
18 conditions those features required to provide ready access to persons with  
19 disabilities.

20 16. The barriers identified above are easily removed without much  
21 difficulty or expense. They are the types of barriers identified by the  
22 Department of Justice as presumably readily achievable to remove and, in fact,  
23 these barriers are readily achievable to remove. Moreover, there are numerous  
24 alternative accommodations that could be made to provide a greater level of  
25 access if complete removal were not achievable.

26 17. Plaintiff will return to Main Street Professional Center to avail himself  
27 of its goods or services and to determine compliance with the disability access  
28 laws once it is represented to him that Main Street Professional Center and its

1 facilities are accessible. Plaintiff is currently deterred from doing so because  
 2 of his knowledge of the existing barriers and his uncertainty about the  
 3 existence of yet other barriers on the site. If the barriers are not removed, the  
 4 plaintiff will face unlawful and discriminatory barriers again.

5 18. Given the obvious and blatant nature of the barriers and violations  
 6 alleged herein, the plaintiff alleges, on information and belief, that there are  
 7 other violations and barriers on the site that relate to his disability. Plaintiff will  
 8 amend the complaint, to provide proper notice regarding the scope of this  
 9 lawsuit, once he conducts a site inspection. However, please be on notice that  
 10 the plaintiff seeks to have all barriers related to his disability remedied. See  
 11 *Doran v. 7-11*, 524 F.3d 1034 (9th Cir. 2008) (holding that once a plaintiff  
 12 encounters one barrier at a site, he can sue to have all barriers that relate to his  
 13 disability removed regardless of whether he personally encountered them).  
 14

15 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
 16 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
 17 Defendants.) (42 U.S.C. section 12101, et seq.)

18 19. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
 19 again herein, the allegations contained in all prior paragraphs of this  
 20 complaint.

21 20. Under the ADA, it is an act of discrimination to fail to ensure that the  
 22 privileges, advantages, accommodations, facilities, goods and services of any  
 23 place of public accommodation is offered on a full and equal basis by anyone  
 24 who owns, leases, or operates a place of public accommodation. See 42 U.S.C.  
 25 § 12182(a). Discrimination is defined, inter alia, as follows:

- 26 a. A failure to make reasonable modifications in policies, practices,
- 27 or procedures, when such modifications are necessary to afford
- 28 goods, services, facilities, privileges, advantages, or

1 accommodations to individuals with disabilities, unless the  
2 accommodation would work a fundamental alteration of those  
3 services and facilities. 42 U.S.C. § 12182(b)(2)(A)(ii).

4 b. A failure to remove architectural barriers where such removal is  
5 readily achievable. 42 U.S.C. § 12182(b)(2)(A)(iv). Barriers are  
6 defined by reference to the ADA Standards.

7 c. A failure to make alterations in such a manner that, to the  
8 maximum extent feasible, the altered portions of the facility are  
9 readily accessible to and usable by individuals with disabilities,  
10 including individuals who use wheelchairs or to ensure that, to the  
11 maximum extent feasible, the path of travel to the altered area and  
12 the bathrooms, telephones, and drinking fountains serving the  
13 altered area, are readily accessible to and usable by individuals  
14 with disabilities. 42 U.S.C. § 12183(a)(2).

15 21. When a business provides parking for its customers, it must provide  
16 accessible parking.

17 22. Here, accessible parking has not been provided.

18 23. The Safe Harbor provisions of the 2010 Standards are not applicable  
19 here because the conditions challenged in this lawsuit do not comply with the  
20 1991 Standards.

21 24. A public accommodation must maintain in operable working condition  
22 those features of its facilities and equipment that are required to be readily  
23 accessible to and usable by persons with disabilities. 28 C.F.R. § 36.211(a).

24 25. Here, the failure to ensure that the accessible facilities were available  
25 and ready to be used by the plaintiff is a violation of the law.

1 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
 2 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
 3 Code § 51-53.)

4 26. Plaintiff repleads and incorporates by reference, as if fully set forth  
 5 again herein, the allegations contained in all prior paragraphs of this  
 6 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
 7 that persons with disabilities are entitled to full and equal accommodations,  
 8 advantages, facilities, privileges, or services in all business establishment of  
 9 every kind whatsoever within the jurisdiction of the State of California. Cal.  
 10 Civ. Code § 51(b).

11 27. The Unruh Act provides that a violation of the ADA is a violation of the  
 12 Unruh Act. Cal. Civ. Code, § 51(f).

13 28. Defendants’ acts and omissions, as herein alleged, have violated the  
 14 Unruh Act by, inter alia, denying, or aiding, or inciting the denial of, Plaintiff’s  
 15 rights to full and equal use of the accommodations, advantages, facilities,  
 16 privileges, or services offered.

17 29. Because the violation of the Unruh Civil Rights Act resulted in difficulty,  
 18 discomfort or embarrassment for the plaintiff, the defendants are also each  
 19 responsible for statutory damages, i.e., a civil penalty. (Civ. Code § 55.56(a)-  
 20 (c).)

21 30. Although the plaintiff was markedly frustrated by facing discriminatory  
 22 barriers, even manifesting itself with minor and fleeting physical symptoms,  
 23 the plaintiff does not value this very modest physical personal injury greater  
 24 than the amount of the statutory damages.

**PRAYER:**

Wherefore, Plaintiff prays that this Court award damages and provide relief as follows:

1. For injunctive relief, compelling Defendants to comply with the Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the plaintiff is not invoking section 55 of the California Civil Code and is not seeking injunctive relief under the Disabled Persons Act at all.

2. Damages under the Unruh Civil Rights Act, which provides for actual damages and a statutory minimum of \$4,000 for each offense.

3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant to 42 U.S.C. § 12205; and Cal. Civ. Code §§ 52.

Dated: February 5, 2020

CENTER FOR DISABILITY ACCESS

By:



Amanda Seabock, Esq.  
Attorney for plaintiff